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NOVARTIS VACCINES AND DIAGNOSTICS INC.
CORPORATE INTELLECTUAL PROPERTY R338
P.O. BOX 8097
EMERYVILLE CA 94662-8097

In re Application of :
Mariagrazia Pizzaet al :
Serial No.: 10/766,560 : PETITION DECISION
Filed: January 29, 2004 :
Attorney Docket No.: 002441.00076 : .

This is in response to the petition under 37 CFR 1.59(b), filed January 29, 2004, to expunge information submitted on filing of the application. The failure to act timely on this petition is regretted by the Office.

Petitioner requests that the specification and claims of SN 08/261,892, submitted January 29, 2004, with this application be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

A review of the documents submitted on filing of this application shows that there are three different specifications which were submitted as part of the initial filing of this application. It is also clear that the document applicants request be expunged was not submitted in accordance with 37 CFR 1.59(b) (see M.P.E.P. 724). Thus it is difficult to determine with certainty which of the three specifications and claims should be expunged. The three specifications are different from each other as follows: The first specification and claim set is typewritten, double spaced, and appears to have holes punched in the top of each sheet and has an imprinted or punched number on it which appears to be "M35..." and consists of a total of 38 pages (spec, claims and abstract); the second specification and abstract (no claims) is a newly printed specification with numbered paragraphs and contains underlined material as well as material deleted by

strikethrough; The third specification (no claims, abstract is separate) appears to be a clean copy of the second specification. The Office assumes that the first described specification and claim set is the one to be deleted as being proprietary material. Applicants request that the material be retuned to them, however since the material was not submitted in accordance with M.P.E.P. 724, the material was included in the IFW database and the papers cannot be physically returned. However the indicated material has been closed to public access which is equivalent to expungement of the material.

The petition is **GRANTED** as indicated.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.



Bruce M. Kisliuk
Director, Technology Center 1600